

**MINUTES OF A PUBLIC HEARING CONDUCTED BY THE ST. LOUIS
COUNTY BOARD OF ADJUSTMENT HELD **TUESDAY, JULY 19, 2011**,
NORTHLAND OFFICE CENTER, VIRGINIA, MN, 9:00 a.m. – 12:10 p.m.**

Board of Adjustment members in attendance:

Diana Werschay – Chair
Tom Coombe
Steve Filipovich
Kurt Johnson
David Peterson
David Pollock

Decisions/Minutes for the following public hearing matters are attached:

NEW BUSINESS:

- A. Ron Wiiliainen, S6, T54N, R21W (Cedar Valley)
- B. Joe Leoni and Dani Raze, S34, T58N, R16W (Biwabik)
- C. Donna Marks, S20, T60N, R21W (French)
- D. Steve Hill, S25, T63N, R18W (Beatty)
- E. William Parish, S25, T61N, R13W (unorganized)
- F. Dan Hartel, S5, T53N, R16W (unorganized)
- G. Bradley Davis, S31, T51N, R16W (Grand Lake)
- H. Blaine R. Amundson, S3,14, T53N, R13W (North Star)
- I. Scott Staples, S36, T56N, R15W (Colvin)
- J. Ron Barg, S20, T69N, R21W (Kabetogama)

OTHER BUSINESS:

Motion by Peterson/Filipovich to approve the minutes of the June 14, 2011 meeting.

In favor: Werschay, Coombe, Filipovich, Peterson, Pollock – 5

Opposed: None - 0

Abstained: Johnson – 1

Motion carried 5-0-1

Johnson was not present at the June 14 meeting.

PUBLIC HEARING:

The first hearing item was for Ron Wiiliainen, S6, T54N, R21W (Cedar Valley) at 2309 10th Avenue East, Hibbing. *Mark Lindhorst*, St. Louis County Planner, reviewed the staff report as follows:

- A. The request is for an addition to a nonconforming accessory building.
- B. The parcel is the only private owned parcel on a Natural Environment lake. The other parcels are owned by the state.
- C. The parcel is 40 acres in size.
- D. There are alternative building locations for the structure that can meet the 150 foot lake setback.

- E. No water oriented accessory structures are allowed on Natural Environment lakes. This structure is the only water oriented accessory structure on the lake.
- F. The addition to the structure already exists and needs siding.

Ed Kerzinski, Environmental Services, via report, stated that permit 23592 was issued on June 27, 2011. The permit was issued for a three bedroom dwelling. The system is to consist of a 1,000 gallon septic tank, 500 gallon pump tank dosing a 10 foot by 75 foot pressurized seepage bed. The proposed drain field and replacement area are located approximately 450 feet south of the existing dwelling.

Mark Lindhorst reviewed staff's conclusions as follows:

1. The request of the applicant is substantial because the applicant is asking for a variance to expand a nonconforming accessory structure 13 feet from the shoreline where St. Louis County Ordinance 46 does not allow any additions.
2. The variance will not have an effect on government services for the following reason(s): the parcel is accessed off a public road, has power, and is used seasonally.
3. If approved, the variance would not change the character of the neighborhood or be detrimental to the neighborhood because there currently is only one building site on the lake. However, allowing a variance to expand a nonconforming structure when multiple building sites exist could set a precedent on future cases.
4. The following alternative(s) could be used to eliminate the need for variance or decrease the extent of the variance being requested: the applicant has a large 40 acre parcel with suitable area to build a conforming sauna at 150 feet from the lake.
5. The property has multiple building sites that meet setback. Practical difficulty has not been demonstrated. As stated in Article IV, Section 3.01, any nonconforming structure that is altered beyond what is allowed for remodeling shall no longer be considered grandfathered, and shall meet all standards of this ordinance.
6. The construction is not yet complete. The structure still needs to be sided.
7. There are no similar structures in the area. This is the only water oriented structure on the lake.
8. The county would benefit by the enforcement of the ordinance if compliance were required because allowing expansion of non-conforming structures 13 feet from the shoreline when suitable building sites exist can set a precedent on future cases.
9. Staff does not know if the violation was intentional.

Mark Lindhorst noted no items of correspondence.

Ron Wiiliainen, the applicant, stated they purchased the land in 1988 and a boathouse, cabin and sauna were located on the property. All of the buildings were repairable but they chose to remove the boathouse, two docks and removed garbage and debris from the shoreline. They are the only private landowners on the lake and they want to improve the area. They repaired the sauna in the early 1990s and extended the roofline. The existing drain line to the lake was converted into a rock drain field and will be hooked into a septic system this fall. The sauna addition would be a changing room. This is the only safe harbor from severe storms. This is the

only buildable lakeshore lot on the lake. The rest of the parcel is either wetlands or bluff area. There is no impact on the environment.

The *Board of Adjustment* discussed the following:

- A. Board member *Coombe* asked about the shed roof on the sauna. *Ron Wiiliainen* stated that the shed roof was approximately six feet by three feet. The roof was extended in either 1991 or 1992 and that posts were used.
- B. Board member *Werschay* asked when the foundation was added. *Ron Wiiliainen* stated that the concrete foundation was added in 2005.
- C. Board member *Filipovich* asked if there were any sign of the old boathouse after it was torn down. *Ron Wiiliainen* stated that there is no sign of the old boathouse. He proceeded to show pictures of the old boathouse.
- D. Board member *Pollock* inquired about the septic system. *Ron Wiiliainen* stated that he wanted to make sure the septic system was large enough to begin with in case they need the larger system.
- E. Board member *Coombe* inquired about the Supreme Court ruling on after-the-fact variances. *Mark Lindhorst* stated that a foundation was added without a permit and those are not allowed within 50 feet of the shoreline with a variance. Because there was no permit, the shed roof never existed. *Mary Anderson*, Planning and Community Development Department, added that the Supreme Court ruling does not give any grandfathering rights to structures built without permits. The applicants were never issued permits for the roof extension or the foundation. Without permits, the roof and foundation do not exist without a variance.

No audience members spoke on the proposal.

FIRST MOTION:

Motion by Peterson to deny the variance request with staff's recommendations and conclusions. The motion received no second. Motion failed.

SECOND MOTION:

Motion by Coombe/Pollock, to approve the after-the-fact variance request to allow a 12 foot by 14 foot addition to a nonconforming structure to remain. The following conditions shall apply:

- 1. The structure shall be unobtrusive (earth-tone) colors, including siding, trim and roof.
- 2. If there is any construction within the shore impact zone, the variance will become null and void.

DISCUSSION ON THE MOTION:

Mary Anderson, Planning and Community Development Department, stated that a variance cannot be nullified because someone has built another building. There can be a condition added that would allow no further building. Board member *Coombe* stated that the condition could be altered to "No further structures shall be allowed in the shore impact zone."

Board member *Werschay* inquired if the structure was destroyed by fire if the sauna could be rebuilt. *Mary Anderson*, Planning and Community Development Department, stated that yes, because the variance will still be in effect and the building was there.

DECISION:

The motion with condition 1 as stated above and an amendment to condition 2 was approved as follows:

Motion by Coombe/Pollock, to approve the after-the-fact variance request to allow a 12 foot by 14 foot addition to a nonconforming structure to remain. The following conditions shall apply:

1. The structure shall be unobtrusive (earth-tone) colors, including siding, trim and roof.
2. No further structures shall be allowed in the shore impact zone.

In Favor: Coombe, Filipovich, Johnson, Pollock – 4

Opposed: Peterson, Werschay - 2

Motion carried 4-2

The second hearing item was for Joe Leoni and Dani Raze, S34, T58N, R16W (Biwabik), 1207 18th Street North, Virginia. *Mark Lindhorst*, St. Louis County Planner, reviewed the staff report as follows:

- A. The request is for an addition to a single family dwelling.
- B. The structure will meet all other setbacks.
- C. The existing septic system was be removed and placed elsewhere.
- D. The existing garage will be removed and will be reconstructed as part of the dwelling addition. The addition will include a three-season porch in front of the existing cabin, a two-story addition where the existing garage is located and an attached garage.
- E. Neighboring lots are all below or right at 40 percent lot width.
- F. There is no screening along the shoreline.

Donna O'Connor, Environmental Services, via report, stated that a permit to construct an SSTS was issued for the Leoni/Raze property on April 11, 2011. The system is a pressure trench sized for four bedrooms. Expansion area is designated as the area between the trenches. The current system will be abandoned. The new system will be located in the northwest corner of the property.

Mark Lindhorst reviewed staff's conclusions as follows:

1. The request of the applicant is substantial because the applicant is asking for a principal structure addition that is 48 percent lot width where St. Louis County Ordinance 46 allows 40 percent.
2. The variance will not have an effect on government services for the following reasons: it is accessed off of a private road and is serviced by a permitted septic system.
3. If approved, the variance would change the character of the neighborhood or be detrimental to the neighborhood because the rest of the structures in the neighborhood are less than or meet the required 40 percent lot width.

4. The following alternative(s) could be used to eliminate the need for variance or decrease the extent of the variance being requested: staff has advised the landowner on several occasions that changing the location of the addition and garage would allow them to meet the 40 percent standard.
5. The applicant has not demonstrated practical difficulty in meeting the lot width standard for a 142 foot wide lot.
6. Taking everything already mentioned into consideration, the variance should be denied because the applicant has not demonstrated practical difficulty. There are design alternatives and there is no vegetation screening between the structure and the lake.

Mark Lindhorst noted seven items of correspondence from Judith and Rick Koyiol in support of this variance and from Lilly and Duane Salo, Judith Koyiol, Bernard M. Russ, Sherry Leoni, Brad Holmes and Patricia J. Minton in support of this variance request.

Dani Raze, the applicant, stated that the garage would not be seen from the lake as they have proposed. There would also be room for additional storage. They would be allowed to detach the garage and build it at the same size without a variance, but that makes no sense to them. She understands that the neighboring properties have lower lot width percentages, but there is more than one structure on these properties. They intend to build just one structure.

Joe Leoni, the applicant, stated that it makes practical sense to attach the garage to the house.

Eric Wedge, architect, stated that they do not want to undermine the existing footings and that is the reason why the proposed garage is located where it is. The existing cabin is on a floating slab. There will also be a greater view of the garage from the lake if the garage was detached.

The *Board of Adjustment* discussed the following:

- A. Board member *Filipovich* asked if the existing foundation will be used for the new structure. *Mark Lindhorst* stated that the garage is being rebuilt into a two-story structure and it is unknown if the existing foundation will be used.
- B. Board member *Coombe* asked how many bedrooms the structure will have. *Mary Anderson*, Planning and Community Development Department, stated that, according to the application, there are three now and there will be four after construction.
- C. Board member *Coombe* asked for the distance between the proposed garage and the cabin. *Dani Raze* stated the distance is 13 feet and inches. That distance will be used as the main entrance into their house.
- D. Board member *Coombe* inquired what the cabin will become once the new structure is built. *Dani Raze* stated that the cabin will be used as a summer cabin.
- E. Board member *Peterson* asked if the garage was not attached would it still calculate into the 40 percent lot width. *Mary Anderson*, Planning and Community Development Department, stated no, it would not. *Mark Lindhorst* added that when the garage is attached, it is not called a garage, but a principal structure addition.
- F. Board member *Coombe* asked if ordinance allows two principal structures on a lot. *Mark Lindhorst* stated that this would not be two principal structures, but one principal structure with an addition. *Mary Anderson* added that ordinance does not allow this.

No audience members spoke on the proposal.

FIRST MOTION:

Motion by Peterson to deny the variance request with staff's recommendations and conclusions because there are alternatives. The motion received no second. Motion failed.

SECOND MOTION:

Motion by Filipovich/Pollock, Approved a variance to allow a principal structure at 48 percent of lot width, due to the fact that if the applicants were required to construct a detached garage, the garage would infringe more on the side property line. No conditions were given with this motion.

DISCUSSION ON THE MOTION:

Board member *Coombe* asked if 40 percent would be a total structure width of 56 or 57 feet. *Mark Lindhorst* stated there is a difference of eleven feet.

Board member *Coombe* added a friendly amendment to the motion to include conditions:

1. Demolition debris from the destroyed structures shall be disposed of in a manner acceptable to the St. Louis County Environmental Services Department.
2. Stormwater shall be directed away from the lake during construction.
3. A plan to enhance vegetation and protect the shore impact zone shall be submitted and approved by the county prior to the issuance of a land use permit, and shall be implemented no later than July 1, 2012.

Both Filipovich and Pollock accepted this amendment.

DECISION:

The motion with added conditions 1, 2 and 3 as stated above by Board member Coombe, was approved as follows:

In Favor: Coombe, Filipovich, Johnson, Peterson, Pollock, Werschay – 6

Opposed: None – 0

Motion carried 6-0

The third hearing item was Donna Marks, S20, T60N, R21W (French), 7508 McCarthy Beach Road, Side Lake. *Mark Lindhorst*, St. Louis County Planner, reviewed the staff report as follows:

- A. The request is for an accessory building.
- B. The proposed garage would not be located in the right-of-way.
- C. The garage would be located five feet from the existing septic system and will not encroach closer.
- D. The applicants would have been able to rebuild the same structure under state statute 394, but wish to add depth to the garage to park their vehicles.
- E. An existing shed will be removed and an existing privy will be abandoned and removed.

Donna O'Connor, Environmental Services, via report, stated that the Marks' dwelling is served by a bottom draining peat filter system installed on September 9, 2010. The system has reduced

setbacks to the Marks' garage and neighbor's garage (with written permission). The peat filter system corrected a failing SSTS. The Marks have no expansion area and Environmental Services recommends no further encroachment of a new garage to either the peat filter bed or the septic tank. There is also concerns about the water lines freezing with the new garage.

Mark Lindhorst reviewed staff's conclusions as follows:

1. The request of the applicant is substantial because the applicant is requesting five variances to build a garage on a .19 acre lot.
2. The variance will not have an effect on government services for the following reason(s): it is accessed off a platted road and has a private septic system.
3. If approved, the variance would not change the character of the neighborhood or be detrimental to the neighborhood because the neighboring properties have accessory buildings that do not meet setback standards.
4. The following alternative(s) could be used to eliminate the need for variance or decrease the extent of the variance being requested: current lot width, septic location and size limit the structure from meeting setback standards and lot coverage.
5. The practical difficulty occurred when the lot was created and developed.
6. Taking everything already mentioned into consideration, the variance should be denied because the increase in size of the garage and the existing development is excessive for a 0.19 acre lot.

Mark Lindhorst noted three items of correspondence from James C. Danner and Geri Cicmil in support of this variance and Kim Osterhoudt with concerns.

Richard Marks, the applicant, passed out a written statement and pictures to the Board.

Donna Marks, the applicant, stated that they are replacing an existing garage with the same footprint except an additional eight feet of length. The current garage does not meet their needs because they cannot fit their vehicles in that garage. Their truck is parked on the easement and cannot fit into the existing garage. The Pine Beach Campground is across the road and campers do not have enough room to get through the road. It is not feasible to repair the garage with multiple holes, sagging rafters, bowed-out walls and cracked cement. The existing garage is on the neighbor's property and the proposed garage is six inches onto their own property. Regarding the setback from the centerline of the road, the lots in the neighborhood are small and most garages are closer than the proposed eleven feet. They believe they are infringing on the road more by parking in the roadway than if they could park in a garage. The garage is currently five feet from the septic which will not change with the new garage. The distance from the tank to the front of the garage would be 9.5 feet by adding the additional eight feet to the front of the garage. Because they are removing the shed and outhouse, subtracting the 118 square feet they propose to remove from the 176 square feet added to the garage, they are requesting only 58 square feet to the building coverage of the lot. Their request is to improve their property and to build a functional garage for their vehicles.

The *Board of Adjustment* discussed the following:

- A. Board member *Filipovich* asked about the water lines. *Richard Marks* stated that he added insulation pads under a walkway and there were no issues.
- B. Board member *Peterson* asked if the garage would be the same height. *Donna Marks* stated that the garage will increase to 20 feet for storage purposes. They intend to also replace the foundation.

No audience members spoke on the proposal.

MOTION:

Motion by Werschay/Peterson, Approved a variance to allow a 22 foot by 26 foot accessory structure with reduced side yard, road centerline, septic system and right-of-way setbacks and building coverage, due to the fact that the applicants are only increasing total lot coverage by two percent, after removing an existing shed and an old privy which will be beneficial to the County. No conditions were added to this motion.

DISCUSSION ON THE MOTION:

Board member *Coombe* added a friendly amendment to the motion to include conditions:

- 1. Demolition debris from the destroyed structures shall be disposed of in a manner acceptable to the St. Louis County Environmental Services department.
- 2. Stormwater shall be directed away from the lake during construction.
- 3. The existing privy shall be properly abandoned per St. Louis County Environmental Services requirements.

Both Werschay and Peterson accepted this amendment.

DECISION:

The motion with added conditions 1, 2 and 3 as stated above by Board member *Coombe*, was approved as follows:

In Favor: *Coombe, Filipovich, Johnson, Peterson, Pollock, Werschay* – 6

Opposed: None – 0

Motion carried 6-0

The fourth hearing item was Steve Hill, S25, T63N, R18W (Beatty), 2649 Wakely Road, Cook. *Tyler Lampella*, St. Louis County Planner, reviewed the staff report as follows:

- A. The request is for an addition to an oversized boathouse.
- B. The requested eight feet would be added to the rear of the boathouse.
- C. There is little vegetative screening to the lake.
- D. Alternative options for the applicant include a lift station, which can be used with the boathouse.

Donna O'Connor, Environmental Services, via report, stated that the Hill property is served by a mound system designed for a three bedroom, year-round home, installed in 1989. Expansion area is designated along Wakely Road. The proposed boathouse will not impact the expansion area.

Tyler Lampella reviewed staff's conclusions as follows:

1. The request of the applicant is substantial because the applicant is asking for variance for a boathouse that is 6 feet longer and 120 square feet larger than that allowed by ordinance. Lake Vermilion is a lake that can already have larger boathouses. Most lakes only allow for 400 square foot boathouses.
2. The variance will not have an effect on government services for the following reasons: the property is currently developed and a larger boathouse will not have an impact on government services.
3. If approved, the variance would not change the character of the neighborhood or be detrimental to the neighborhood because the neighborhood is already extensively developed.
4. The following alternative(s) could be used to eliminate the need for variance or decrease the extent of the variance being requested: the applicant can construct a boathouse that does not exceed the allowable size limits.
5. There is no practical difficulty. The applicant bought a boat that is too large to fit in a 20 foot by 26 foot boathouse.

Tyler Lampella noted no items of correspondence.

Steve Hill, the applicant, stated that they have no hardship in this case. He purchased a pontoon boat that does not fit in the existing boathouse. They could add a lift beside the dock. They felt that a boathouse addition would be the best way to go aesthetically.

No audience members spoke on the proposal.

DECISION:

Motion by Peterson/Filipovich, Denied a variance with staff's recommendations and conclusions to allow the construction of an addition to an existing boathouse, due to the fact that the addition would result in the boathouse being larger than allowed by ordinance and shoreland regulations.

In Favor: Filipovich, Johnson, Peterson, Pollock – 4

Opposed: Coombe, Werschay - 2

Motion carried 4-2

The fifth hearing item was William Parish, S25, T61N, R13W, 12569 Danbury Way, Rosemount. *Tyler Lampella*, St. Louis County Planner, reviewed the staff report as follows:

- A. Staff previously issued permits believing Birch Lake to be a General Development lake. It was determined later that Birch Lake was a Recreational Development lake requiring a 100 foot lake setback.
- B. The applicants were previously issued a land use permit to construct the dwelling 100 feet from the lake but applied for the variance when they ran into issues.
- C. The applicants are requesting an 88 foot setback to construct a 29 foot high single family dwelling.
- D. A ledge of bedrock limits where the entrance to the garage is located.
- E. It would be difficult to use the garage if the house is located at the 100 foot setback.

Donna O'Connor, Environmental Services, via report, stated that William Parish has a permit to construct a SSTS issued on December 16, 2010. The mound system is sized for three bedrooms. The only expansion area available is small and would require a performance-type system. The proposed new dwelling does not impact SSTS areas.

Tyler Lampella reviewed staff's conclusions as follows:

1. The request of the applicant is not substantial. The applicant is asking for variance(s) of 12 feet from the required lake setback and 4 feet over allowable building height.
2. The variance will not have an effect on government services for the following reason(s): the lot is currently developed and will not require additional services.
3. If approved, the variance would not change the character of the neighborhood or be detrimental to the neighborhood because most of the dwellings are closer than 100 feet to the lake. Also the mobile home that was removed was closer to the lake than the proposed structure.
4. The following alternative(s) could be used to eliminate the need for variance or decrease the extent of the variance being requested: the garage could be removed; however, that is not reasonable at this time.
5. The practical difficulty occurred because of the location of the garage and the bedrock outcrop.

Tyler Lampella noted no items of correspondence.

William Parish, the applicant, stated that the height will be 26 feet, not 29 feet as requested, including the foundation. He stated that the structure would have been 29 feet in height if footings were used. He is concerned about the distance from the driveway to the structure causing a drainage problem.

Board member *Peterson* asked if other neighboring properties have structures closer to the lake. *Tyler Lampella* stated that the 75 foot lake setback was in use for years and there are structures located 75 feet and closer to the lake.

No audience members spoke on the proposal.

DECISION:

Motion by Werschay/Peterson, to approve the variance to construct a 29 foot high dwelling 88 feet from the Ordinary High Water Level (OHWL) of Birch Lake. The following condition shall apply:

1. The structure shall be unobtrusive (earth-tone) colors, including siding, trim and roof.

In Favor: Coombe, Filipovich, Johnson, Peterson, Pollock, Werschay – 6

Opposed: None – 0

Motion carried 6-0

The sixth hearing item was Dan Hartel, S5, T53N, R16W, 4011 Midway Road, Hermantown. *Tyler Lampella*, St. Louis County Planner, reviewed the staff report as follows:

- A. The request is for a new single family dwelling which will be attached to an existing garage.
- B. The applicant is proposing to remove an existing dwelling, shed and guest cabin.
- C. The applicant will move the existing gazebo out of the shore impact zone to another location on the property.
- D. No structures will be located in the shore impact zone.

Ed Kerzinski, Environmental Services, via report, stated that permit 14632 was issued on November 12, 2004. The system consists of two 1,500 gallon holding tanks serving a two bedroom seasonal-use only dwelling. The current operating permit for the holding tanks is up to date, expiring on December 12, 2012. The lot was evaluated by Darrel Johnson, MPCA licensed SSTS installer and designer on June 17, 2011. No septic sites were found on the property due to the small lot size, setbacks to the lake, property lines, well and existing structures. *Donna O'Connor*, Environmental Services, added that holding tanks are seasonal use from April to November only.

Tyler Lampella reviewed staff's conclusions as follows:

- 1. The request of the applicant is substantial. The number of variances requested makes the overall request substantial. The applicant has worked with planning staff to reduce the number and extent of the variances.
- 2. The variance will not have an effect on government services for the following reasons: The parcel is already developed. The proposed redevelopment will not impact any government services.
- 3. If approved, the variance would not change the character of the neighborhood or be detrimental to the neighborhood. There is a mix of new and old development in the neighborhood. This proposal will result in a structure larger than many of the older dwellings in the neighborhood but it is more in line with the new development.
- 4. The following alternative(s) could be used to eliminate the need for variance or decrease the extent of the variance being requested: the size of the structure could be reduced.
- 5. The practical difficulty occurred because of the small size of the platted lot and the fact that it is substantially narrower at the road.

Tyler Lampella noted no items of correspondence.

Dan Hartel, the applicant, stated that the property has been in the family since 1962. They wish they had additional property to build on. They began the variance process three years ago. They are removing three buildings in the shore impact zone. There will be fewer buildings on the property and it will be a better property. Some of the structures are close to the side property lines. They intend to do the construction in the winter months.

Board member *Johnson* inquired if this was the applicant's final home because the septic report stated the residence was for seasonal use only *Dan Hartel* stated that this is a seasonal home.

No audience members spoke on the proposal.

DECISION:

Motion by Coombe/Peterson, to approve a new dwelling with a lake setback of 50 feet from the OHWL, a maximum building footprint that is 18 percent of the lot area, maximum lot coverage of 26 percent and a 10 foot setback from the north property line. The following conditions shall apply:

1. The structure shall be unobtrusive (earth-tone) colors, including siding, trim and roof.
2. A plan to enhance vegetation and protect the shore impact zone shall be submitted, approved by the county prior to the issuance of the land use permit, and shall be implemented by the property owner no later than one year from the date the land use permit is issued.
3. All demolition material and other waste shall be disposed of in a manner acceptable to St. Louis County Environmental Services department.

In Favor: Coombe, Filipovich, Johnson, Peterson, Pollock, Werschay – 6

Opposed: None – 0

Motion carried 6-0

The seventh hearing item was Bradley Davis, S31, T51N, R16W (Grand Lake), 744 Laurel Street, Cloquet. *Roanne Axdahl*, St. Louis County Planner, reviewed the staff report as follows:

- A. The property is 0.30 acres with approximately 100 feet of shoreline.
- B. The request is for a principal structure.
- C. The applicants also own a parcel across the road.
- D. There is an existing deck between the house and garage. The 68 foot structure width is a combination of the width of both the house and garage. The structure will be a dwelling with an attached garage.
- E. The applicants have worked with staff to reduce the size of the structure.

Ed Kerzinski, Environmental Services, via report, stated that permit 4933 was issued on September 21, 1992. The system consists of a 1,000 gallon septic tank, 500 gallon pump chamber dosing a 10 foot by 50 foot pressure mound. The system was sized for a two bedroom dwelling and is located across the road from the existing dwelling. Replacement area would be the site of the existing system. The proposed dwelling must maintain a ten foot minimum separation distance to the existing septic tank.

Roanne Axdahl reviewed staff's conclusions as follows:

1. The request of the applicant is substantial because the applicant is seeking a variance of 37.5 percent side yard setback, 33 percent rear yard setback, 45 percent road centerline, and 50 percent shoreline setback, 58 percent structure width and 40 percent lot size of the ordinance standards.
2. The variance will not have an effect on government services for the following reasons: This is an already developed area with private road access.

3. If approved, the variance would not change the character of the neighborhood or be detrimental to the neighborhood because there are other structures in the area that do not meet the required setback.
4. The following alternatives could be used to eliminate the need for variance or decrease the extent of the variance being requested: constructing the smaller principal structure.
5. The practical difficulty occurred because this parcel is shallow in depth.

Roanne Axdahl noted four items of correspondence from Brooke Shannon (Clerk, Town of Grand Lake), Scott and Robyn Jenson, Sharon and Brett Lundberg, and Lynn Christman in support of the variance.

Bradley Davis, the applicant, stated that the existing dwelling is not energy efficient. The dwelling is actually moving with the foundation. They have a signed contract to remove the existing house and garage. The proposed dwelling is just slightly larger than the existing footprint. They would like additional storage.

No audience members spoke on the proposal.

MOTION:

Motion by Coombe/Peterson, to allow a 68 foot wide principal structure at reduced side yard, rear yard, road centerline and shoreline setbacks and buildable lot size.

DISCUSSION ON THE MOTION:

Board member *Coombe* asked if the entire variance needed to be rescinded. *Mary Anderson*, Planning and Community Development Department, stated that variance 3568H was a health variance for the applicant's septic system and should not be rescinded. However, condition 2, stating "no further development be allowed on the property" should be rescinded. The amendment was added to the motion by Board member *Coombe* and was seconded by Board member *Peterson*.

DECISION:

The motion, as stated above, was approved, with the addition that condition 2 for variance 3568H, stating "No further development be allowed on the property" is rescinded, as follows:

In Favor: Coombe, Filipovich, Johnson, Peterson, Pollock, Werschay – 6

Opposed: None – 0

Motion carried 6-0

The eighth hearing item was for Blaine R. Amundson, S14, T53N, R13W (North Star), 7738 East Briar Lake Drive, Duluth. *Roanne Axdahl*, St. Louis County Planner, reviewed the staff report as follows:

- A. The request is for an accessory building located 50.53 feet from the centerline of Briar Lake Road.
- B. The garage will not be seen from the lake.
- C. There is a steep slope to the lake with good vegetative screening.

Ed Kerzinski, Environmental Services, via report, stated that permit 15397 was issued on September 9, 1972. The system consists of a 1,000 gallon septic tank with 245 lineal feet of standard three foot wide trench drain field. The system was sized for a three bedroom dwelling. Septic replacement area is available near the existing system across the driveway from the proposed garage.

Roanne Axdahl reviewed staff's conclusions as follows:

1. The request of the applicant is substantial because the applicant is seeking a variance of 25 percent setback of the road centerline ordinance standard.
2. The variance will not have an effect on government services for the following reasons: This is an already developed area with private road access.
3. If approved, the variance would not change the character of the neighborhood or be detrimental to the neighborhood because the proposed structure would be screened from the lake and neighboring properties.
4. The following alternative(s) could be used to eliminate the need for variance or decrease the extent of the variance being requested: constructing a smaller structure.
5. The practical difficulty occurred because this parcel is shallow in depth.

Roanne Axdahl noted no items of correspondence.

Blaine Amundson, the applicant, stated that this is the only location to put the garage. The garage will meet all setback distances except for the road centerline setback.

Board member *Coombe* asked about the suggestions in 2005 about a compliance inspection for the septic. *Blaine Amundson* stated that this has been taken care of.

No audience members spoke on the proposal.

DECISION:

Motion by Filipovich/Peterson, to allow an accessory structure with a 50.53 foot road centerline setback.

In Favor: Coombe, Filipovich, Johnson, Peterson, Pollock, Werschay – 6

Opposed: None – 0

Motion carried 6-0

The ninth hearing item was Scott Staples, S36, T56N, R15W (Colvin), 8765 South 1st Street, Iron. *Jenny Bourbonais*, St. Louis County Planner, reviewed the staff report as follows:

- A. The request is for an accessory structure.
- B. The property is part of an outlot. The applicant also owns a lake parcel.
- C. The request for the accessory structure was originally larger; the applicant worked with staff to reduce it to the current size.
- D. The applicant owns an undivided 1/83 interest in Outlot B which is East Cabin Circle Drive.

- E. The 0.23 acre parcel has issues with topography and wetlands. The only practical location for the accessory structure is where the structure is proposed.

Donna O'Connor, Environmental Services, via report, stated that the Staples have had two septic system areas identified by a SSTS designer. The report was received on July 18, 2011. Both septic sites are on the lakeshore lot. The proposed garage will not impact these areas.

Jenny Bourbonais reviewed staff's conclusions as follows:

1. The request of the applicant is substantial because the applicant is asking for variance(s) for a 33 foot road centerline and a 24 foot right-of-way setback where St. Louis County Ordinance 46 requires a 68 foot centerline and 35 foot right-of-way setback. This is a 35 foot centerline and 11 foot right-of-way variation. The variance to allow construction on a lot that does not meet lot size requirement is also substantial because the subject property is 0.23 acre in size where St. Louis County Ordinance 46 allows construction on a lot 0.5 acre in size with lot of record status. However, this is an old platted lot that was created as a result of the DNR.
2. The variance will not have an effect on government services because it is an existing lot with adequate road access.
3. If approved, the variance would not change the character of the neighborhood or be detrimental to the neighborhood because there are other accessory structures located on the non lake side lots within the plat of Whiteface Point at reduced road setback.
4. The following alternative(s) could be used to eliminate the need for variance or decrease the extent of the variance being requested: the applicant has worked with staff for a proposal to construct a smaller garage (24 foot by 32 foot) than originally requested. This would increase the distance between the garage and the road and decrease safety concerns of backing up a vehicle directly on to the road. In addition, a smaller structure would decrease potential impact to wetlands on the property.
5. The practical difficulty occurred because of the way the plat was recorded (as a small lot across from the lakeshore lot), the topography and wetland issues on the lot.

Jenny Bourbonais noted no items of correspondence.

Scott Staples, the applicant, stated the garage will be safer for use in the summer.

No audience members spoke on the proposal.

DECISION:

Motion by Werschay/Peterson, to allow a 24 foot by 32 foot accessory structure with a 33 foot road centerline and 24 foot right-of-way setback. The following conditions shall apply:

1. The requirements of the Minnesota Wetland Conservation Act shall be followed.
2. An erosion control plan shall be submitted, approved by the Planning and Community Development Director and implemented prior to issuance of the land use permit.
3. The stormwater runoff from the proposed structure shall not directly discharge onto the road or on adjacent lots.

In Favor: Coombe, Filipovich, Johnson, Peterson, Pollock, Werschay – 6

Opposed: None – 0

Motion carried 6-0

The tenth hearing item was Ron Barg, S20, T69N, R21W (Kabetogama), 2524 Eagle Valley Drive, Woodbury. *Jenny Bourbonais*, St. Louis County Planner, reviewed the staff report as follows:

- A. The request is for an accessory structure.
- B. Tomahawk Lane is a local road requiring a 48 foot centerline setback for accessory structures.
- C. The accessory structure would meet all other setback requirements.
- D. There are issues with topography on the property.
- E. The neighboring properties are accessed from driveways that are accessed from the Barg's driveway.
- F. It would not be practical to move the garage to meet setbacks because it would require blasting bedrock.
- G. The overhead door should not face the road for safety reasons.

Donna O'Connor, Environmental Services, via report, stated that the Barg property is served by a holding tank on an operating permit issued December 17, 2010. There is no area on the lot for a septic system. The cabin must remain seasonal. A water meter is to be installed to meet operating permit requirements.

Jenny Bourbonais reviewed staff's conclusions as follows:

- 1. The request of the applicant is substantial because the applicant is asking for variance(s) for a 35 foot centerline and 20 foot right of way setback where St. Louis County Ordinance 46 requires 48 foot centerline and 35 foot right of way setbacks. The request is for a 13 foot centerline and 15 foot right of way variation.
- 2. The variance will not have an effect on government services for the following reason: there is established use on the property with existing road access.
- 3. If approved, the variance would not change the character of the neighborhood or be detrimental to the neighborhood because with adequate conditions, the proposed structure should not impact neighboring property's use of the road.
- 4. The following alternative(s) could be used to eliminate the need for variance or decrease the extent of the variance being requested: the structure could be pushed slightly further from the road; however, blasting of bedrock might be required. The overhead garage door shall be placed so that vehicles are not backing out directly onto the road for safety reasons.
- 5. The practical difficulty occurred because of the steep and rocky terrain of the property. The proposed location of the garage appears to be the most suitable area for a structure.

Jenny Bourbonais noted one item of correspondence from the applicant, Ron Barg.

Ron Barg, the applicant, stated he would like the flexibility to locate the garage door facing the road instead of the driveway. He would need to discuss that option with his contractor. The road

is not used throughout the year. The road is not plowed past the permanent residences. His property is seasonal.

The *Board of Adjustment* discussed the following:

- A. Board member *Coombe* asked if the applicant could work with the garage door facing the driveway instead of the road. *Ron Barg* stated he would like the flexibility to locate the garage door towards the road instead of the driveway. He stated that Tomahawk Lane is a seasonal road and is used minimally and used by no permanent residents past his. Only three seasonal cabins use the road past his during the summer season.
- B. Board member *Coombe* asked about the water meter. *Ron Barg* stated he just received the notice to add a water meter and will be installed later this summer.

No audience members spoke on the proposal.

DECISION:

Motion by Filipovich/Pollock, to allow a 24 foot by 24 foot accessory structure at a 35 foot road centerline and 20 foot road right-of-way setback(s). The following conditions shall apply:

- 1. The structure shall be unobtrusive (earth-tone) colors, including siding, trim and roof.
- 2. The stormwater runoff from the proposed structure shall not directly discharge into the road or on adjacent lots.
- 3. A water meter shall be installed prior to the issuance of a land use permit for the accessory building.

In Favor: Filipovich, Johnson, Peterson, Pollock, Werschay – 5

Opposed: Coombe – 1

Motion carried 5-1